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9 **BEFORE THE**
RESPIRATORY CARE BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 1H-2008-771

13 CANDACE ROSE SAMMONS
115 E. La Deney
14 Ontario, CA 91764

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Respiratory Care Board of California.
21 2. On or about December 3, 2008, the Respiratory Care Board of California
22 (Board) received a complete application for a Respiratory Care Practitioner License from
23 CANDACE ROSE SAMMONS (Respondent). On or about November 29, 2008, Respondent
24 certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on or about April 13, 2009.

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JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part, that “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“...

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“...

“(g) Conviction of a violation of any of the provisions of this chapter or of any provision of Division 2 (commencing with Section 500), or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision or term of this chapter or of any provision of Division 2 (commencing with Section 500).”

“...

“(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

“...”

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2 7. Section 3732 of the Code states:

3 “(a) The board shall investigate an applicant for a license, before a license
4 is issued, in order to determine whether or not the applicant has the qualifications
5 required by this chapter.

6 “(b) The board may deny an application, or may order the issuance
7 of a license with terms and conditions, for any of the causes specified in
8 this chapter for suspension or revocation of a license, including, but not
9 limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6,
10 3755, 3757, 3760, and 3761.”

11 8. Section 3752 of the Code states,

12 “A plea or verdict of guilty or a conviction following a plea of nolo
13 contendere made to a charge of any offense which substantially relates to
14 the qualifications, functions, or duties of a respiratory care practitioner is
15 deemed to be a conviction within the meaning of this article. The board
16 shall order the license suspended or revoked, or may decline to issue a
17 license, when the time for appeal has elapsed, or the judgment of
18 conviction has been affirmed on appeal or when an order granting
19 probation is made suspending the imposition of sentence, irrespective of a
20 subsequent order under Section 1203.4 of the Penal Code allowing the
21 person to withdraw his or her plea of guilty and to enter a plea of not guilty,
22 or setting aside the verdict of guilty, or dismissing the accusation,
23 information, or indictment.”

24 9. Section 3754 of the Code states: “The board may deny an
25 application for, or issue with terms and conditions, or suspend or revoke, or impose
26 probationary conditions upon, a license in any decision made after a hearing, as provided
27 in Section 3753.”

28 10. California Code of Regulations, title 16, section 1399.370, states, in

1 pertinent part:

2 “For the purposes of denial, suspension, or revocation of a license, a
3 crime or act shall be considered to be substantially related to the
4 qualifications, functions or duties of a respiratory care practitioner, if it
5 evidences present or potential unfitness of a licensee to perform the
6 functions authorized by his or her license or in a manner inconsistent with
7 the public health, safety, or welfare. Such crimes or acts include but are not
8 limited to those involving the following:

9 “(a) Violating or attempting to violate, directly or indirectly, or
10 assisting or abetting the violation of or conspiring to violate any provision
11 or term of the Act.

12 “(b) Conviction of a crime involving fiscal dishonesty, theft or
13 larceny.

14 “(c) Conviction of a crime involving driving under the influence or
15 reckless driving while under the influence.

16 “...”

17 **COST RECOVERY**

18 11. Section 3753.5, subdivision (a) of the Code states:

19 “In any order issued in resolution of a disciplinary proceeding
20 before the board, the board or the administrative law judge may direct any
21 practitioner or applicant found to have committed a violation or violations
22 of law to pay to the board a sum not to exceed the costs of the investigation
23 and prosecution of the case.”

24 13. Section 3753.7 of the Code states:

25 “For purposes of the Respiratory Care Practice Act, costs of
26 prosecution shall include attorney general or other prosecuting attorney
27 fees, expert witness fees, and other administrative, filing, and service fees.”

28 14. Section 3753.1 of the Code states:

1 “(a) An administrative disciplinary decision imposing terms of
2 probation may include, among other things, a requirement that the
3 licensee-probationer pay the monetary costs associated with monitoring the
4 probation.

5 “...”

6 **FIRST CAUSE FOR DENIAL OF LICENSE**
7 (Conviction of Crimes Substantially Related to the Qualifications,
8 Functions, or Duties of a Respiratory Care Practitioner)

8 15. Respondent’s application is subject to denial under section 3750, as
9 defined by section 3750, subdivision (d), and 3752 of the Code, and Title 16, California
10 Code of Regulations, section 1399.370, in that Respondent has been convicted of crimes
11 substantially related to the qualifications, functions, or duties of a Respiratory Care
12 Practitioner, as more particularly described in paragraphs 16 through 27, below.

13 **The December 14, 1998 Conviction:**

14 16. On or about June 28, 1998, Respondent was arrested for
15 violations of Vehicle Code section 23152 (a) [driving under the influence of alcohol], and
16 Vehicle Code section 23152 (b) [driving with a blood alcohol level of .08% or higher].

17 17. On or about July 27, 1998, Respondent was charged in the case
18 entitled *People of the State of California v. Candace Rose Sammons*, Los Angeles County
19 Municipal Court Case No. 8GL03526, with violations of Vehicle Code section 23152 (a)
20 [driving under the influence of alcohol] and Vehicle Code section 23152 (b) [driving with
21 a blood alcohol level of .08% or higher].

22 18. On or about December 14, 1998, Respondent pled nolo contendere to
23 a violation of Vehicle Code section 23152 (a) [driving under the influence of alcohol], in
24 the case entitled *People of the State of California v. Candace Rose Sammons*, Los Angeles
25 County Municipal Court Case No. 8GL03526.

26 19. On or about December 14, 1998, the Court sentenced Respondent in
27 Case No. 8GL03526 to three (3) years summary probation, complete a three (3) month
28 first conviction program, and pay a fine and assessments of \$1,265.00.

1 **The September 7, 2005 Conviction:**

2 20. On or about September 2, 2005, Respondent was arrested for a
3 violation of Penal Code section 459-460 (b) [burglary in the second degree].

4 21. On or about September 7, 2005, Respondent was charged in the
5 case entitled *People of the State of California v. Candace Rose Sammons* Orange County
6 Superior Court Case No. 05HM06164, with violating Penal Code section 459-460 (b)
7 [burglary in the second degree].

8 22. On or about September 7, 2005, Respondent pled nolo contendere to
9 a violation of Penal Code section 459-460 (b) [burglary in the second degree], in the case
10 entitled *People of the State of California v. Candace Rose Sammons*, Orange County
11 Superior Court Case No. 05HM06164.

12 23. On or about September 7, 2005, the Court sentenced Respondent in
13 Case No. 05HM06164 to one (1) year informal probation with terms and conditions
14 including a stay away order from Forever 21 clothing store, seven (7) days in Orange
15 County Jail, and a restitution fine of \$100.00.

16 **SECOND CAUSE FOR DENIAL OF LICENSE**

17 (Conviction of a Crime Involving Driving Under the Influence)

18 24. Respondent's application is further subject to denial under section
19 3750, as defined by section 3750, subdivision (d), and section 3752 of the Code, and Title
20 16, California Code of Regulations, section 1399.370, subdivision (c), in that she has been
21 convicted of a crime involving driving under the influence of alcohol, as more particularly
22 described in paragraphs 16 through 19, above, which are hereby incorporated by reference
23 and realleged as if fully set forth herein.

24 **THIRD CAUSE FOR DENIAL OF LICENSE**

25 (Conviction of Crimes Involving Theft or Larceny)

26 25. Respondent's application is further subject to denial under section
27 3750 of the Code as defined by section 3750, subdivision (d), and section 3752 of the
28 Code, and Title 16, California Code of Regulations, section 1399.370, subdivision (b), in

1 that she has been convicted of a crime involving theft or larceny, as more particularly
2 described in paragraphs 20 through 23, above, which are hereby incorporated by reference
3 and realleged as if fully set forth herein.

4 **FOURTH CAUSE FOR DENIAL OF LICENSE**

5 (Commission of a Fraudulent, Dishonest or Corrupt Act)

6 26. Respondent's application is further subject to denial under section
7 3750, as defined by section 3750,, subdivision (j), and Title 16, California Code of
8 Regulations, section 1399.370, in that she has committed a fraudulent, dishonest or corrupt
9 act or acts substantially related to the qualifications, functions, or duties of a respiratory
10 care practitioner, as more particularly described in paragraphs 20 through 23, above, which
11 are hereby incorporated by reference and realleged as if fully set forth herein.

12 **FIFTH CAUSE FOR DENIAL OF LICENSE**

13 (Violation of a Provision of the Act)

14 27. Respondent's application is subject to denial under section 3750, as
15 defined by section 3750, subdivision (g), and Title 16, California Code of Regulations,
16 section 1399.370, subdivision (a), in that Respondent has violated, or attempted to violate,
17 directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any
18 provision or term of the Act, as more particularly described in paragraphs 16 through 23,
19 above, which are hereby incorporated by reference and realleged as if fully set forth herein

20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters
22 herein alleged, and that following the hearing, the Board issue a decision:

23 1. Denying the application of Respondent for a Respiratory Care
24 Practitioner License;

25 2. Directing Respondent to pay the Respiratory Care Board of
26 California the costs of the investigation and enforcement of this case, and if placed on
27 probation, the costs of probation monitoring; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: May 29, 2009

Original signed by Colleen Whitestine: _____
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
State of California
Complainant

SD2009804204
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